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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHARLES J. THURSTON, and
THERESE A. THURSTON,

: Case No. C-1-02-363

Plaintiff,

:

(Magistrate Judge Timothy S. Hogan)

:

v.

:

UNITED STATES OF AMERICA

:

Defendant.

:

RESPONSE TO UNITED STATES' FIRST REQUEST FOR ADMISSIONS

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, the United States of America requests the plaintiffs each separately admit the truth of the facts set out below within thirty (30) days of being served with these requests. Unless admitted, the answer shall specifically deny the mailer or set forth in detail the reasons why the answering party cannot truthfully admit or deny the mailer. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the mailer on which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.

All time periods referred to in the requests for admission refer to the time periods set forth in the plaintiffs' complaint and in the United States' counterclaim.

ADMISSIONS

1. Admit that Charles J. Thurston was employed as a contract emergency room physician with Deaconess Hospital, Cincinnati, Ohio during the taxable years ending December 31, 1994 and December 31, 1995.

2/6/03

Response: Admit that Charles J. Thurston is the legal entity who was contracted and performed services through his Management Company as a contract emergency room physician with Deaconess Hospital, Cincinnati, Ohio during the taxable years ending December 31, 1994 and December 31, 1995.

2. Admit that Charles J. Thurston was paid the total amount of \$157,118.10 for the taxable year ending December 31, 1994 as a contract emergency room physician with Deaconess Hospital, Cincinnati, Ohio.

Response: Deny, the amount of payment stated in no.2. For balance of response see response no.1.

3. Admit that Therese A. Thurston did not earn any income during the taxable year ending December 31, 1994.

Response: Deny that Therese A. Thurston did not earn any income during the taxable years ending December 31, 1994.

4. Admit that Charles J. Thurston was paid the total amount of \$208,609.00 for the taxable year ending December 31, 1995 as a contract emergency room physician with Deaconess Hospital, Cincinnati, Ohio.

Response: Admit that Charles J. Thurston, the legal entity who was contracted and performed services through his Management Company received the total amount of \$208,609.00 for taxable year ending December 31, 1995.

5. Admit that Therese A. Thurston did not earn any income during the taxable year ending December 31, 1995.

Response: Deny that Therese A. Thurston did not earn any income during the taxable year ending December 31, 1995.

6. Admit that the medical treatment administered by Charles J. Thurston during the taxable years ending December 31, 1994 and December 31, 1995 for patients admitted into Deaconess Hospital took place at Deaconess Hospital.

Response: Admit.

7. Admit that Charles J. Thurston did not treat any patients that were admitted into Deaconess Hospital at 427 Oak Lane, Kingston, Ohio, during the taxable years ending December 31, 1994 and December 31, 1995.

Response: Admit.

8. Admit that, during the taxable years ending December 31, 1994 and December 31, 1995, Deaconess Hospital was Charles J. Thurston's principal place of business.

Response: Deny.

9. Admit that Thurston M&M Consulting, LLC was incorporated with the State of Ohio on or about February 23, 2001.

Response: Admit.

10. Admit that Thurston M&M Consulting, LLC was not in existence prior to February 23, 2001, the date of incorporation with the State of Ohio.

Response: Deny. The LLC was not in legal existence prior to February 23, 2001, the date its Articles of Organization were filed with the State of Ohio. However, Thurston M&M Consulting was in existence as a business prior to February 23, 2001.

11. Admit that Charles J. Thurston, MD, LLC was incorporated with the State of Ohio on or about February 23, 2001

Response: Admit.

12. Admit that Charles J. Thurston, MD, LLC was not in existence prior to February 23, 2001 the date of incorporation with the State of Ohio.

Response: Deny. The LLC was not in legal existence prior to February 23, 2001, the date its Articles of Organization were filed with the State of Ohio. However, Charles J. Thurston, MD was in existence as a business prior to February 23, 2001.

13. Admit that Thurston R&D Service, LLC was incorporated with the State of Ohio on or about February 23, 2001.

Response: Admit.

14. Admit that Thurston R&D Service, LLC was not in existence prior to February 23, 2001, the date of incorporation with the State of Ohio.

Response: The LLC was not in legal existence prior to February 23, 2001 the date its Articles of Organization were filed with the State of Ohio. However, Thurston R&D Service was in existence as a business prior to February 23, 2001.

15. Admit that Thurston Publication, LLC was incorporated with the State of Ohio on or about February 23, 2001.

Response: Admit.

16. Admit that Thurston Publication, LLC was not in existence prior to February 23, 2001, the date of incorporation with the State of Ohio.

Response: Deny. The LLC was not in legal existence prior to February 23, 2001, the date its Articles of Organization were filed with the State of Ohio. However, Thurston Publication was in existence as a business prior to February 23, 2001.


17. Admit that T.A.T. Management & Consulting, LLC was incorporated with the State of Ohio on or about February 23, 2001.

Response: Admit.

18. Admit that T.A.T. Management & Consulting, LLC was not in existence prior to February 23, 2001, the date of incorporation with the State of Ohio.

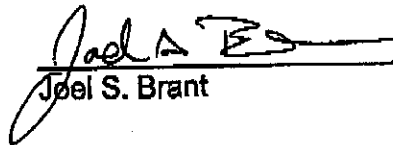
Response: Deny. The LLC was not in legal existence prior to February 23, 2001, the date its Articles of Organization were filed with the State of Ohio. However, T.A.T. Management & Consulting was in existence as a business prior to February 23, 2001.

Respectfully submitted,


Joel S. Brant (0068914)
Trial Attorney for Plaintiff
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Response to United States' First Request for Admissions served by facsimile transmission and U.S. mail on Elizabeth Lan, U.S. Department of Justice, Post Office Box 55, Ben Franklin Station, Washington, D.C. 20044 and Jan M. Holtzman, U.S. Attorney's Office, Southern District of Ohio, 221 East Fourth Street, Suite 400, Cincinnati, Ohio 45202 this 6th day of February, 2003.



Joel S. Brant

KTBH: 548952.1